

(2011) 02 SHI CK 0084
In the High Court Of Himachal Pradesh
Case No : CWP T-2268 of 2008

Mohan Lal	Vs	APPELLANT
Dr. Y.S. Parmar University and Others		RESPONDENT

Date of Decision : 22-02-2011

Acts Referred:

Citation : (2011) 02 SHI CK 0084

Hon'ble Judges : Deepak Gupta, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Deepak Gupta, J.—The Petitioner by means of this petition prays that he should be granted seniority in the category of Junior Scale Stenographers in accordance with the merit drawn up by the Selection Penal at the initial stage of selection.

2. It is not denied that the Respondent-University is following the policy of granting seniority on the basis of merit drawn up by the Selection Committee which selected these candidates. However, the Petitioner has not been given seniority on this count due to the peculiar facts and circumstances of the case as set out below.

3. The undisputed facts are that the Petitioner along with many other persons including the private Respondents No. 3 to 15 were called for a test to fill up the posts of Junior Scale Stenographers some time on 5th July, 1988. Consequent upon the said test, the Petitioner was found suitable and asked to report for an interview on 23.7.1988. On 26th July, 1988 the Petitioner and the private Respondents were issued letters of appointment and asked to join the University within 35 days. Thereafter the Petitioner sent a letter to the University on 30th August 1988 that though he was willing to accept the post of Junior Scale Stenographer he, due to unavoidable circumstances, would not be in a position to join within 35 days and prayed that the joining time be extended upto 30.9.1988. Vide letter dated 30.9.1988, he again prayed for extension of joining

time upto 30.11.1988 and this request was acceded to.

4. It appears that on 5th August 1988 the Petitioner appeared before the Medical Officer of the University who found that he was not medically fit for the job since he was suffering from some major cardiological problem. Thereafter on 2.11.1988 the Professor of Cardiology, Indira Gandhi Medical College, Shimla opined that he "at present" is fit to join duty. Thereafter on 28.11.1988 an office order was issued by the Respondent-University appointing the Petitioner on adhoc basis and regular appointment order was issued on 9.6.1989.

5. The grievance of the Petitioner is that he was willing to join within 35 days, but due to the fact that the doctor of the University found him unfit, he could not join and this opinion of the doctor was overruled by the Professor of the Indira Gandhi Medical College, Shimla and the Medical Board constituted in this behalf and therefore his seniority should be reckoned as per the merit determined by the Selection Committee.

6. The contention of the Petitioner cannot be accepted. It is not as if the Petitioner was not suffering from any cardiological problem. The Medical Officer of the University found him unfit to join duty. No doubt, later the Petitioner was declared fit to join duty, but this does not mean that he was fit to join duty on 5.8.1988. The Petitioner in his various letters asked for extension of time and did not state as to why he could not join and kept requesting for extension of time. Why should the private Respondents No. 3 to 15 suffer because admittedly the Petitioner did not join within the period of 35 days, but joined much later.

7. In my considered view he cannot now claim seniority over and above the private Respondents. The petition being without merit is accordingly dismissed. No order as to costs.